



Failed justice: EDDIE JOE LLOYD

Eddie Joe Lloyd:

- Mentally ill and institutionalized when charged with the crime.
- Wrongfully convicted in Wayne County of the 1984 brutal rape and murder of a sixteen year-old girl.
- Sentenced to life without parole.
- Spent more than 17 years in prison for a crime he did not commit.
- Exonerated on August 26, 2002.
- Died September 22, 2004, because of medical complications arising during his incarceration.



Innocent!

Mr. Lloyd's mental condition

While committed to the Detroit Psychiatric Institute, Mr. Lloyd sent letters to the police with suggestions about how to solve the murder case. He had been diagnosed by the psychiatrist as suffering from bipolar affective disorder and exhibited symptoms such as grandiosity, flight of ideas, and "a substantial disorder of thought or mood which significantly impairs judgment, behavior, capacity to recognize reality, or ability to cope with the ordinary demands of life."

Mr. Lloyd falsely confessed to committing the crimes.

The trial (1985)

His first appointed lawyer quit on the day of his trial because he was ill. His second lawyer failed to argue key issues.

- There was no challenge to the police interrogation that took place while Eddie was in a mental institution.
- No psychiatric expert was asked to evaluate the reliability of his confession, even though he was in a mental institution at the time he was interviewed.
- There was no call for forensic analysis of the blood, hair or fingernail scrapings from the crime scene.
- Little cross-examination took place during trial, and no defense witnesses were called.
- The first lawyer received a flat \$150 for all investigative activities, regardless of what could actually be accomplished for that amount.
- The investigator, a law student with a prior criminal record, never met with Mr. Lloyd or conducted a meaningful investigation.

Mr. Lloyd's exoneration

Mr. Lloyd contacted the Innocence Project and after years of searching for the biological evidence in his case, two crime labs performed DNA testing, both finding that the DNA evidence excluded Mr. Lloyd as a suspect. In August 26, 2002, he was exonerated. *The real perpetrator in this case has not yet been found.*

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Failed justice: **FREDERICK FREEMAN** **(TEMUJIN KENSU)**

Frederick Freeman (Temujin Kensu):

- Was charged and convicted of 1st degree murder in St. Clair County at the age of 23, he has spent more than 20 years in prison.
- Was convicted despite witnesses verifying that he was more than 400 miles away in Escanaba at the time of the murder in Port Huron.
- Is supported by a number of individuals who believe he will be found to be factually innocent, including former FBI agents, Michigan State Police investigators, attorneys, filmmakers and journalists, and a former Michigan Supreme Court Justice.



The arrest

One night in November 1986, Frederick Freeman thought he was being sought for information regarding a friend he had fallen out with. He was instead arrested for the murder of the son of a mayor a town near Port Huron—the fiancé of a former girlfriend that Mr. Freeman/Kensu had dated briefly during the summer of 1986.

Mr. Freeman/Kensu had a public defense attorney, who was later suspended from practicing law and who was abusing drugs and alcohol. In another individual's case, it was ruled that he was ineffective; that other individual was later freed.

The trial

Mr. Freeman/Kensu has maintained his innocence. Eye witnesses identified another man during a lineup as the perpetrator of the crime. A primary witness against him confessed on television to lying regarding a jailhouse confession during the trial.

His defense attorney did not make objections in a timely fashion in order to challenge search warrants. The attorney did not call essential witnesses. He made no objections to an "expert" called during rebuttal that offered conjectures of how Mr. Freeman/Kensu could have hired a private pilot to fly round trip Escanaba to Port Huron, despite the amount of time and cost this would have taken.

His attorney did not acknowledge the conflict of interest he had given his relationship with the lead police homicide investigator. Counsel failed to object to the testimony of the fiancée of the victim regarding Freeman/Kensu's alleged "Ninja" prowess and mind-controlling powers, despite a defense witness (not called) who could have disputed her testimony. The fiancée of the victim acknowledged that no one else heard Mr. Freeman make threats or brag about his Ninja skills.

*"I read the whole transcript and I don't see how they could convict the guy."
— Retired Michigan Supreme Court Justice, Walter Brennan.*

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Failed justice: **FREDERICK MARDLIN**

Frederick Mardlin:

- Evidence strongly indicates that he was wrongfully convicted in St. Clair County of arson of a dwelling house and sentenced to 3 to 20 years.
- Courts denied funding for a defense electrical expert to rebut the testimony of the prosecution's experts.
- Investigation by an electrical expert working pro bono provides compelling proof of Mr. Mardlin's innocence.

The charges against Mr. Mardlin

The charges against Mr. Mardlin arose from a November 13, 2006 fire in his home. The prosecution argued that Mr. Mardlin intentionally started the fire to collect insurance proceeds because he was behind on his bills. Though no accelerant was found during the investigation, the prosecution claimed that the damage was "consistent" with such use. The prosecution's experts, however, failed to examine the faulty wiring in an outlet in the room where the fire started.

Mr. Mardlin's public defense failure – Lack of critical expert evidence

Evidence as to the cause of the fire required expert investigation and analysis. Three arson experts testified on behalf of the prosecution. Mr. Mardlin's appointed counsel requested appointment of an electrical engineer and a fire investigator. The trial judge requested the results of the electrical engineer's investigation, which defense counsel was not able to provide, as no expert was yet appointed. The court then denied the appointment of an electrical expert. The trial court approved funding for a fire investigator's testimony but not for his investigation. The fire investigator determined that the fire had an electrical cause, but because of the lack of funds and electrical expertise, could not investigate further. Mr. Mardlin was convicted by jury of arson of a dwelling house and burning insured property and was sentenced to concurrent terms of 3 to 20 years and 1 to 10 years.

Newly developed exonerating evidence

In 2008, appointed appellate counsel filed a motion for a new trial on the ground of new evidence based on preliminary work done by an electrical engineering expert, Larry Stalter. Though the trial court denied the appointment of Mr. Stalter as an expert, Mr. Stalter continued assisting on the case in a pro bono manner. He conducted destructive testing on the faulty outlet which had never been tested before. That testing conclusively showed that the cause of fire was electrical, and, therefore, that the fire was accidental.

The Court of Appeals ordered an evidentiary hearing, at which the defense presented evidence of the documented testing and the electrical expert's sworn statements that the fire was an accident and electrically caused. The prosecution did not rebut this testimony. The trial court denied the motion for a new trial and again denied appointment of the expert. The Court of Appeals reversed on an evidentiary ground, but also denied appointment of an expert, as did the Supreme Court of Michigan. The Michigan Supreme Court then granted leave to appeal to the prosecutor and denied bond to Mr. Mardlin. The county has also refused to pay for the appointed appellate attorney's work at the Court of Appeals unless he undertakes the full appeal at the Supreme Court on a pro bono basis.

Mr. Mardlin remains incarcerated, having served nearly his entire minimum sentence, at a cost of greater than \$100,000 to the taxpayers of the state of Michigan. The appointment of the electrical expert would have only cost the trial court a few thousand dollars.

"Mr. Mardlin is still in prison for an accidental fire for which he was unfairly convicted."

- F. Martin Tieber, Mr. Mardlin's appellate attorney

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Failed justice: LARRY PAT SOUTER

Larry Pat Souter:

- Spent 13 years in prison after having been wrongfully convicted in Newaygo County of second-degree murder in 1992.
- Was represented at trial by a court-appointed attorney who failed to investigate the charges against him.
- Was released on April 1, 2005 after the U.S. Court of Appeals for the Sixth Circuit found him to be innocent.



The charges against Mr. Souter:

In 1992, 12 years after a young woman had been found dying from a head wound on the side of a road in Newaygo County, Mr. Souter was charged with her death. On the day she died, she and Mr. Souter left a party together but only Mr. Souter returned. He reported that the victim had decided to walk home alone. Neither of the two pathologists consulted by the police shortly after the victim's death could identify with any certainty the cause of the head wound. Among other things, they speculated that she may have been struck by a car while walking along side the road. In 1991, a newly elected Newaygo County sheriff decided to re-open the case. Although he did not find any new evidence, he did find two new forensic scientists who were willing to contradict the original two pathologists and state that the victim had been beaten to death with a pint-sized whisky bottle belonging to Mr. Souter.

Mr. Souter's public defense attorney

Unable to hire his own defense lawyer, Mr. Souter was appointed an attorney by the court. Because of the 12-year delay in prosecution, several key pieces of evidence had been lost or misplaced and two important witnesses could no longer be located. Although this could have been raised in court as a reason to dismiss the charges, the attorney did not do this. In addition, the attorney failed to present evidence at trial demonstrating that the whiskey bottle was incapable of inflicting the type of head wound that had killed the victim. Mr. Souter was convicted of second-degree murder and sentenced to a term of 20 to 60 years in prison.

Mr. Souter's release

Armed with testimony from the whiskey bottle's manufacturer about the fact that the bottle could not have been the murder weapon, Mr. Souter filed a motion for a new trial with the original trial court. That motion was denied and both the Michigan Court of Appeals and the Supreme Court refused to hear an appeal. When the testimony was presented to the United States Court of Appeals for the Sixth Circuit, however, the Court concluded that Mr. Souter had "demonstrated a credible claim of actual innocence" and granted his petition for a writ of habeas corpus.

A Newaygo county woman who read in a local newspaper of Mr. Souter's success before the Sixth Circuit immediately came forward and reported to police that she believed that her deceased father was responsible for the victim's death. He had struck the victim accidentally with his mobile home while she had been walking away from the party. Two months later, Mr. Souter was released from prison.

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Failed justice: WALTER SWIFT

Walter Swift:

- Was wrongfully convicted in Wayne County of rape and robbery in 1982.
- Was represented at trial by a public defense attorney who later lost his law license because of his incompetence.
- Was sentenced to 20-40 years. He spent almost twenty-six years in prison before he was exonerated on May 21, 2008.



The case against Mr. Swift

In 1982, Mr. Swift was arrested and charged with raping and robbing a Detroit schoolteacher in her home. The victim initially described her attacker as a thin, clean-shaven young man, between 15 to 18 years old, with braided "poofy" hair. Looking through mug shots at the police department after the attack, she pointed to eight men with features somewhat similar to those of her attacker. Mr. Swift was one of them. The police then placed Mr. Swift and several other men whose photos the victim had never reviewed in a line-up. Based on that single line-up, the victim identified Mr. Swift as the perpetrator. None of the seven men previously identified by the victim as resembling her attacker were subjected to a line-up.

The police officer in charge of the investigation wrote, "*Not a strong I.D.*," in her notes following the lineup. Mr. Swift did not at all resemble the victim's initial description. He was 21 years old, had a full moustache and short hair with side burns. That police officer, however, was subsequently removed from the case.

Mr. Swift's public defense attorney

Public defense attorney Lawrence Greene was assigned to represent Mr. Swift. At trial, Mr. Greene failed to present alibi testimony from a veteran law enforcement officer with 24 years of service and no motive to lie; did not provide the jury with the results of blood tests implicating another individual as the perpetrator; neglected to make the jury aware of the fact that Mr. Swift did not resemble the victim's initial description of her attacker; and did not challenge the manner in which the line-up had been conducted.

Mr. Greene was subsequently reprimanded numerous times for misconduct and failure to provide effective representation in other cases and on three different occasions had his law license revoked.

Mr. Swift's exoneration

Both the Michigan Court of Appeals and the Michigan Supreme Court rejected Mr. Swift's appeals. In the late 1990s, Mr. Swift contacted The Innocence Project in New York City who agreed to take on his case. After conducting its own investigation, the Project uncovered the various deficiencies in Mr. Swift's prosecution and made them known to the Wayne County Prosecutor. In 2008, the Prosecutor and the Innocence Project jointly moved to have Mr. Swift's conviction set aside.

Because of his 26 years in prison, Mr. Swift missed the childhood of his only daughter, Audrey Mills, who was one year old when her father was imprisoned. After her father's release, Ms. Mills noted: "I have always wanted my father with me. So, to not have him home has been sad. You see people and they get to spend Father's Day with their father. You are reminded that your father was taken away from you for no good reason."

"I'm angry that this is supposed to be a justice system, and it's nothing even close to a justice system."

- Audrey Kelly Mills, Mr. Swift's daughter

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Failed justice: DAVID TUCKER

David Tucker:

- Spent more than five years in prison after being convicted in Wayne County of a crime that strong evidence indicates he did not commit.
- Was represented at trial by a public defense attorney who failed to prepare.
- Was released in 1997, after the United States District Court for the Eastern District of Michigan concluded that he had been deprived of his 6th Amendment right to counsel.

The charges against Mr. Tucker

In 1991, Mr. Tucker was arrested and charged with severely beating a co-worker, ten months earlier, in or near the restaurant where they both worked. On the day of the assault, Mr. Tucker had found the co-worker lying unconscious outside the restaurant's bathroom, reported the co-worker's injuries to his supervisor and called 911. The co-worker suffered a serious head injury and spent several weeks after the attack in a comatose state in a local hospital. Initially, the co-worker identified a Mr. Wiley and another man as his assailants. The Detroit police department arrested the two but dropped the charges against them when the co-worker changed his story and claimed that Mr. Tucker was responsible.

Mr. Tucker's public defense attorney

Without the financial means to hire a lawyer, Mr. Tucker was assigned a public defense attorney. Insisting that he was innocent, Mr. Tucker refused to plead guilty and the case was set for trial. His attorney, however, did nothing to prepare for that trial. *He wrongly assumed that the co-worker would not testify against Mr. Tucker and failed to:*

- Obtain the co-worker's medical records to establish that the co-worker's injuries had adversely affected his memory;
- Bring to court a letter from the co-worker's attorney attesting to the fact that the co-worker did not remember the assault or the events leading up to it; and
- Obtain the police reports establishing that the co-worker had initially identified Mr. Wiley as one of the perpetrators.

When the attorney learned that the co-worker would testify, he did not ask the court for more time to prepare. Although he cross-examined the co-worker, he did not ask him about his head injuries, misstatements he had made while testifying about the nature and extent of those injuries, or his initial identification of Mr. Wiley.

Mr. Tucker's trial lasted just 45 minutes. Because counsel had permitted Mr. Tucker to waive his right to a jury trial, the trial judge decided the case.

Mr. Tucker's release

On appeal, all three state courts found that defense counsel's failure to prepare for trial was not enough to prove he was ineffective. The United States District Court for the Eastern District of Michigan, however, disagreed and concluded that Mr. Tucker had been deprived of the effective assistance of counsel and ordered that he be released. The U.S. Court of Appeals for the Sixth Circuit affirmed this.

*"I was naïve. I didn't know anything about the courts. I'd never been in trouble before.
I'd never even been to the police station."
- David Tucker*

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Failed justice: KARL VINSON

Karl Vinson:

- Evidence strongly suggests he was wrongfully convicted in Wayne County in 1986 of criminal sexual conduct.
- Is currently incarcerated, having spent 24 years behind bars for a crime he did not commit.
- Was found guilty based on erroneous scientific evidence.
- Has recently filed an appeal based on newly developed forensic evidence that completely exonerates him.

The case against Mr. Vinson

In January 1986, a man broke into a home and raped a nine-year-old girl. The girl did not identify the attacker until her mother suggested Karl Vinson, the ex-husband of the girl's former babysitter. There was no physical evidence linking Mr. Vinson to the crime. In fact, testing of bodily fluids found on the victim's bedsheet indicated that the perpetrator had type O blood; Mr. Vinson's blood type was AB. Yet, Mr. Vinson was arrested and charged. At trial, the prosecutor incorrectly told the jury that the blood typing did not prove Mr. Vinson's innocence because his AB blood type cannot be detected in his bodily fluids and because the type O stain on the bed sheet could have come from the victim.

Mr. Vinson's public defense attorney

Mr. Vinson's court appointed trial attorney did not retain her own experts to test Mr. Vinson's blood, the stained bed sheet, or the rape kit from the hospital. In fact, she never asked for the results of the rape kit. In addition, she failed to cross-examine the prosecution's witnesses on the presence of type O blood antigens on the bed sheet and the fact that their presence indicated that the rapist had type O blood, while Mr. Vinson had type AB blood. The only witnesses she called on Mr. Vinson's behalf were his mother and stepfather, both of whom provided an alibi for Mr. Vinson but were harshly cross-examined by the prosecutor.

Newly developed exonerating evidence

As confirmed by recent tests, Mr. Vinson's blood type can be detected in his bodily fluids, which means that he could not have been the rapist. Otherwise, AB antigens would have been detected in the bodily fluids on the bed sheet. The prosecution expert who testified at trial now admits that her analysis was wrong, and other experts have confirmed that the type O stain must have come from the rapist, not from the victim. Although Mr. Vinson repeatedly tried to obtain the bed sheet to perform DNA testing on it, he was informed by the police, five years after his first request, that the sheet had been destroyed.

Mr. Vinson now

Mr. Vinson is currently represented by the University of Michigan Law School's Innocence Clinic and has sought a hearing based on the new exonerating evidence. He has exhausted all other avenues of appeal.

He is now 54 and has been in jail for 24 years. When his son was murdered in 2001, he was not allowed to attend the funeral. Mr. Vinson and his family have maintained his innocence since his incarceration.

"My brother is innocent. It has taken 23 years for people to listen."

- Robert Vinson, Karl Vinson's brother

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Failed justice: HAROLD WELLS

Harold Wells:

- Was only twenty-one years old, with no prior record, when he was convicted.
- Evidence strongly suggests that he was wrongfully convicted in Wayne County in 1992 of receiving and concealing stolen property for allegedly driving a stolen car.
- Spent eighteen months in prison for a crime he did not commit before the prosecutor dropped the charges.

The arrest

Harold Wells was walking home from a friend's house when he was suddenly arrested. The police officers believed he was the driver that ran away from a traffic stop a quarter mile away, fifteen minutes earlier. The stop was made at 5 a.m. and it was dark outside.

The two passengers who remained in the car told the police at the police station that Mr. Wells was not the driver.

The trial

Mr. Wells' attorney first tried to convince him to plead guilty in order to get probation. Mr. Wells refused, knowing he was innocent.

"He wanted me to say I did it and I'll get probation and I said, 'No, no, I'll have to live with that the rest of my life. I won't say it, because I didn't do it,' I was up there crying because I had never been through anything like this before. I was very, very scared." – Harold Wells

The trial lasted less than a half hour. The only witnesses called by the prosecution were the two police officers. Mr. Wells' attorney failed to call either of the two passengers as witnesses, although Mr. Wells informed him they told police he was not the driver. The trial attorney never contacted the witnesses who later said in a sworn statement that she had been willing to testify on Mr. Wells' behalf.

Mr. Wells' release

Later, Mr. Wells' appellate attorney spoke with one of the passengers. She submitted a sworn statement that she had told the police when Mr. Wells was arrested that he was not the driver.

The judge granted a new trial after the passenger's sworn statement was presented. The prosecutor dropped the charges.

Mr. Wells later sued the City of Detroit; the suit was settled for \$20,000.

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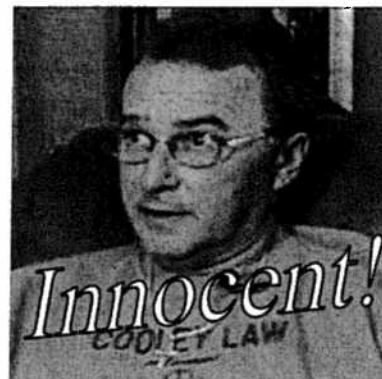
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Failed justice: KEN WYNIEMKO

Ken Wyniemko:

- A son, a father, and a friend to many.
- Wrongfully convicted of rape in Macomb County in 1994.
- Sentenced to 40-60 years.
- Spent over eight years in prison for a crime he did not commit.
- Exonerated on June 17, 2003.



The composite sketch

The victim told investigators that she saw a few glimpses of the attacker before she was blindfolded. She described him as a white male between 6' and 6'2" tall, weighing about 200-225 pounds, about 20-25 years old. Later she described the composite sketch created by the police as only about 60 percent accurate. Mr. Wyniemko was 5'11", weighed 198 pounds, and was 43 years old.

The trial (1994)

Mr. Wyniemko was certain his attorney would challenge the evidence in court. But that didn't happen. His public defense attorney did not answer numerous phone calls, and then quit. The judge appointed a new attorney that Friday, and set the following Monday as the date for jury selection. That gave the new attorney just *two* days to examine the facts of the case. In addition:

- Biological evidence that would have proven his innocence was never analyzed.
- The attorney did not challenge the police informant's testimony that was evidence.
- The attorney did not adequately question the reliability of the composite sketch used as evidence against Mr. Wyniemko.

Mr. Wyniemko's exoneration (2003)

- DNA testing in June 2003 did not match Mr. Wyniemko's DNA.
- His conviction was overturned on June 17, 2003.
- Mr. Wyniemko recalls that there was not a single cloud in a sky that day.
- The person who likely committed the crime has recently been identified through a DNA match - more than thirteen years after the crime was committed.

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